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1616.

CASE PH/5-31142A

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October 30, 2003
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF

Art Unit: 1616

GLOCK

Examiner: S N QAZI

APPLICATION NO: 10/070,766

FILED: MAY 31, 2002

FOR: HERBICIDAL COMPOSITION

Mail Stop Patent Application
Commissioner for Patents
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RESPONSE TO RESTRICTION REQUIREMENT

Sir:

In response to the Office Action, dated October 3, 2003, having a shortened statutory period for response set to expire November 3, 2003, the following remarks are respectfully submitted for consideration.

REMARKS

Claims 1-12 are pending herein.


The Examiner requires restriction under § 121 by election of a single disclosed species of the generic invention as set forth in claim 1. Applicants elect, with traverse, as the herbicide, compound I₁ (described on page 28) and as the safener, compound IIa₁ (mefenpyr-ethyl as described on page 18). This specific combination is described in Table B1 on page 29 of the present specification.

Reconsideration of the restriction requirement is respectfully requested. Thus, Applicants view as appropriate the inclusion in a single application of claims reading on a combination of claimed safeners with a compound of formula (I). What is represented is interrelated subject matter. This interrelationship rather than the classification in separate classes should be the overriding factor in determining the propriety of the restriction requirement. Additionally, the current guidelines on restriction practice recommend the examination of different sets of claims when such examination would not be unduly burdensome or prolonged. It is contended that this guideline would apply to the instant set of claims.

Applicants aver that they have made a complete response to the restriction requirement of the Examiner and that the instant application and claims are now in better condition for examination on their merits and for allowance.

Respectfully submitted,

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